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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,320	01/17/2002	Sakhrat Khizroev	SEAG 49680	5901

7590

01/05/2004

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EXAMINER
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OMETZ, DAVID LOUIS

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 01/05/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/031,320

Applicant(s)

KHIZROEV ET AL.

Examiner

David L. Ometz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 4, 5. 6) ☐ Other: \_\_\_\_\_

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1. Applicant's election without traverse of Group I, claims 1-14 in Paper No. 7 is acknowledged.
2. Claims 15-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.
3. It is noted by the examiner that the information disclosure statement filed January 17, 2002 has been lined through by the examiner as the listing of references are duplicates already listed in the IDS filed 8/13/03.
4. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.
5. Figures 1-3, 6a, 6b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
7. Claims 1-6, 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Nepala (US Pat 5734533). Nepala shows a longitudinal recording head in figure 1 that has: first and second poles P1,P2 defining a non-uniform gap 14,16,18; means for concentrating magnetic flux between the first and second poles in the vicinity of the gap as the inherent operation of an inductive head with coil windings for inducing flux to bridge the magnetic gap 14,16,18 between

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the first and second poles P1,P2; the non-uniform gap comprises a cavity portion 14 which can be curved (cylindrical, ellipsoidal, hemispherical, see col. 4, lines 22-26).

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nepala. Nepala shows a non-uniform gap in an inductive magnetic head as noted above. Nepala does not disclose the specific cavity dimensions for the gap as claimed in claims 7 and 14. However, one of ordinary skill in the art at the time the invention was made would have found the dimensions obvious through routine experimentation and optimization. The cavity dimensions are akin to optimizing the values of a result effective variable (in this case the cavity dimensions define the non-uniform gap and the resulting change in the amount/placement of the flux lines across the non-uniform gap). Therefore, determining the optimal value of a result effective variable would have been obvious and ordinarily within the skill of the art. In re Boesch, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). The dimensions are not seen to achieve any unexpected result over the prior art and are therefore not seen to be critical; In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990). It does not specify a device that performs or operates differently from the prior art. Gardner v. TEC Systems, Inc., 725 F.2d 1338 (Fed. Cir. 1984).

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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited all shows magnetic heads with gaps having various geometries/asymmetries.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Ometz whose telephone number is (703) 308-1296.

The examiner can normally be reached on M-W, 6:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.



David L. Ometz  
Primary Examiner  
Art Unit 2653

DLO  
12/29/03